TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 178.

JESUS M. BALZAC, APPELLANT,

vs.

THE PEOPLE OF PORTO RICO.

APPEAL FROM THE SUPREME COURT OF PORTO RICO.

FILED DECEMBER 1, 1902.

(28,000)

(28,000)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1921.

No. 178.

JESÚS M. BALZAC, APPELLANT,

vs.

THE PEOPLE OF PORTO RICO.

APPEAL FROM THE SUPREME COURT OF PORTO RICO.

INDEX.

	Original.	Print.
Record from the district court of Arecibo	1	1
Information	1	1
Judgment district court of Arecibo, Porto Rico	5	3
Appeal to the supreme court of Porto Rico	5	4
Statement of the case	6	4
Motions to continue, &c.	7	5
Demurrer and order overruling	10	6
Testimony of Ramón Alfonso Rivera	10	7
José Adorno	13	9
Ramón Seijo	15	10
José Coll y Vidal	16	10
Prudencio Rivera	17	11
Judge's certificate	19	13
Motion for continuance	20	13

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., SEPTEMBER 21, 1921.

	Original.	Print.
Opinion, Wolf, J	25	17
Judgment	27	18
Appeal to the Supreme Court of the United States	28	19
Assignment of errors	29	20
Order allowing appeal, etc	30	21
Bond for temporary liberty of defendant	31	22
Bond for costs	34	24
Order approving bonds	37	26
Citation and service	39	26
Præcipe for record	40	27
Notice of filing of præcipe	41	28
Service of præcipe	42	28
Translator's certificate	43	29
Clerk's certificate	44	30

1 In the Name and by the Authority of the People of Porto Rico.

UNITED STATES OF AMERICA,
The President of the United States, ss:

In the District Court of Arecibo, P. R., May 31, 1918.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

The prosecuting attorney files this information against Jesús M. Balzac for libel (misdemeanor) as provided in sections 243 and 244 of the Penal Code, committed as follows:

In Arecibo, Porto Rico, of the Judicial District of the same name, the defendant Jesús M. Balzac, editor and manager of the daily paper "El Baluarte", with an office for its publication on Lealtad and Puente de Hierro streets, No. 7, Arecibo, Porto Rico, which is published and circulates in said Judicial District of Arecibo, unlawfully, wilfully and maliciously, published and caused to be composed, edited and published, in No. 69 of said newspaper "El Baluarte", prior to the filing of this information, or on April 16, 1918, a defamatory, false, scandalous and malicious libel in the form of an article published under the heading "Yager", containing false, scandalous, malicious and defamatory matters, words and charges against the governor of Porto Rico, Arthur Yager, the said libel reading as follows:

Like an abortion of hell expelled by the fiery billows of infamy this prototype of ignominy came among us as the diabolical incarnation of despotism. For many years he has been our governor and during those years our tyrant. How sharp is the arrow that pierces our hearts when we contemplate our people subject to
2 the yoke of an oppression which can only be explained by the egotism of false patriots and which has for its only foundation the unenlightened strength of controlled power. Hunt ruled amidst the tempests of passion of a sordid people. He permitted abuses and sanctioned crime, but respected the right. This (governor) has done more. He has Borinquen sunk in the slough of social slavery. He has put his foot upon the necks of the people and makes them swallow the liberticidal slime of the slough. The former was a separatist. The latter is a dictator. Those who remember the mournful happenings of 1904; those who keep alive in their minds a remembrance of the sad political tempests of the country; those who were flagellated by the hosts of Hunt, forget pains of past outrages and become amazed at con-

templating the present barbarities, just as the recollection of night phantoms is forgotten by the timorous at dawn. Who does not view with horror the exploits of this man whose authority is an insult and a dishonour to democracy and whose is the hand that tears the pages of the Constitution and impiously rends the white robe of Justice, which is as beautiful as Diana under the free shadow of the American flag, and as unhappy as Niobe under the authority of this American Kaiser.

We are men of honor and by God's grace do not have to remain silent before the cruel mockery of this fiendish bucaneer, a trampler upon the right a caluminator of the people, an accomplice of Child, Latimer, Carpenter, Maxwell and Bird, and a protector of that innumerable rabble of social xylophaga who feed upon the blood of this people. The great American nation should feel satisfied with our campaign of moral sanitation against this
3 handful of dung thrown at us by Wilson from the Capitol which is a fatal discredit to the national honor. That wretched, abominable and funereal figure; that man who is despised by the people, is the extinguisher of every luminous idea which expands and shines in the niveous hands of this virgin of the Carribean Sea; he is the odious grave-digger of the people, the assassin of democracy and the people's persecutor; the insensate hangman of the yankee sentiment and of the love that this unfortunate people feels towards that Nation. He is an attempt at national dignity, a sarcasm that as a shower of daggers fall sharply upon the brow of American democracy; an unbearable vexation to Saxon moral liberalism * * *. All tyrants had their crowns. I shall present one to this hyena studded with maledictions. It is an aureola that makes him detestable. It is the repugnant aureola of hypocrisy. Certainly this is a hypocrit-al governor. He acts contrary to his words. While he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people. That unfortunate man of a feeble criterion to be a governor will be a stain upon history * * *—The Knight-errant.

All of which is tending to impeach the honesty, integrity, virtue or reputation, of the Hon. Arthur Yager, thereby exposing him to public hatred, contempt or ridicule.

This fact is contrary to the law for such cases provided and against the peace and dignity of the People of Porto Rico.

(Sd.) JOSÉ R. APONTE,
District Prosecutiing Attorney.

4 The foregoing information is supported by the testimony of witnesses examined by me under oath and I solemnly believe there is just cause to present it in the court.

(Sd.) JOSÉ R. APONTE,
District Prosecuting Attorney.

Sworn to and subscribed before me this 31st day of May, 1918.

(Sd.) MANUEL L. CORBET,
Clerk of the District Court of Arecibo, P. R.

Session of May 31st, 1918, 3 p. m.

Case No. 880.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

Charge: Libel.

The defendant appeared in open court and after having been informed as provided in section 143 of the Code of Criminal Procedure, stated that his name was Jesús M. Balzac. The district attorney read the information and handed a copy of it to the said defendant, who pleaded not guilty.

UNITED STATES OF AMERICA,
The President of the United States, ss:

In the District Court for the Judicial District of Arecibo, P. R.

Case No. 880.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

Charge: Libel.

5 *Judgment.*

In view of the evidence examined during the session held on the 29th of July, 1918, the court finds the defendant, Jesús M. Balzac, guilty of the crime of libel as charged and sentences him to imprisonment for five months in the District Jail and the payment of the costs of this prosecution.

I, Manuel L. Corbet, Clerk of the District Court for the Judicial District of Arecibo, Porto Rico, do hereby certify that the foregoing is a true and exact copy of the judgment rendered by the aforesaid court in the above-entitled criminal action, which was tried before the said court during the session held on the 29th of July, 1918, as appears from the minutes of this court of the session held on the said date. And for its inclusion in the corresponding record, I issue this copy under my signature and the official seal of the court in the city of Arecibo, this 31st day of July, 1919.

(Sd.) MANUEL L. CORBET,
Clerk District Court.

In the District Court for the Judicial District of Arecibo, P. R.

Case No. 880.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

To the Clerk and District Attorney of the District Court of Arecibo:

You are hereby notified that not being satisfied with the judgment rendered by the court on this date and in this case, I appeal to the Supreme Court of Porto Rico.

Arecibo, P. R., July 31st, 1918.

(Sd.) J. M. BALZAC.

6 Received copy this 31st day of July, 1918.

(Sd.) JOSÉ R. APONTE,
District Prosecuting Attorney.

Filed in my office this 31st day of July, 1918.

(Sd.) MANUEL L. CORBET,
Clerk.

In the District Court for the Judicial District of Arecibo, P. R.

Case No. 880.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

Charge: Libel.

Statement of the Case.

Be is remembered that on July 29, 1918, in the District Court of Arecibo, Porto Rico, present Hon. Enrique Lloreda Casabo, judge of said court, the criminal prosecution brought by The People of Porto Rico against Jesús M. Balzac for the crime of libel as defined in sections 243 and 244 of the Penal Code of Porto Rico was tried orally and publicly, The People of Porto Rico appearing by José R. Aponte, district attorney of Arecibo, and the defendant being present in person and represented by his attorney, José de Jesús Tizol.

The parties having been asked by the court if they were ready for trial, counsel for the defendant requested that the marshal of the court be called to state whether certain witnesses for the defense had been subpœnæd in accordance with a præcipe previously filed. The marshal reported that the governor's secretary was at Jájome,

that Mr. Shanton and Mr. Robert are out in the island for
7 which reason he has been unable to subpœna them; that the marshal of San Juan reported that he had not had time to subpœna the Commissioner of the Interior.

Attorney Tizol informed the court that there were other necessary witnesses for the defense who had not appeared, and asked leave of the court to file a written motion regarding the absence of the witnesses and for a continuance. At the same time he moved orally that the defendant be allowed a trial by jury. The district attorney objected stating that in a libel case against Adorno the Supreme Court had clearly decided that the District Court had jurisdiction in misdemeanor cases and that it is plainly provided in the Penal Code that a trial by jury is not required in misdemeanor cases.

The court overruled the motion on the ground that no right is conferred to a jury trial in these cases under our criminal procedure.

Attorney Tizol excepted to the ruling of the court arguing that such proceedings were unconstitutional in not conferring a right which is substantial to every American citizen and the court stated that even in the supposition that the law granted trials by juries in misdemeanor cases, the defendant should have asked for it at the time of his arraingment and not having done so it should be understood that he waived that right as decided by the Supreme Court in the case of Ex parte Torres, 4 P. R. R., 146. The court added that a trial by jury can only be granted in a felony case and that privilege has not been extended to prosecutions for libel or any other misdemeanor case. The People vs. Bird, 5 P. R. R. 183. The court adjourned its session for one hour in order that the defendant's counsel may prepare and file his written motion for continuance. The session having been reopened attorney Tizol filed a written motion for a continuance and the court ordered that it be made a part of the record so that a copy thereof might be included in the transcript of the record.

8 The district attorney opposed the continuance requested by the defendant Balzac for the reason that the testimony which some of the witnesses would give of facts referring to the governor of Porto Rico can be given only by the Chief of the Government in accord with the Chief of Police because its context clearly shows that the acts were performed as measures of public policy and bear no relation to the crime of libel with which defendant Jesús M. Balzac is charged. Regarding the other testimony of Epifanio Fiz, Ramón Barrios, Santiago Iglesias and Henry W. Dooley, it is the personal opinions of these witnesses which have no weight under a plea of justification of a libel because the plea should be directed specially to the defamatory matter and should be supported by facts showing that the libelous matter was published by the person charged with it and cannot be proved by a public rumor or hearsay. In support of this theory he cited 25 Cyc. 414, et seq., and Newell on Slander and Libel, 658, et seq. He further stated that this case has been continued four times prior to this date with the knowledge of the defendant's attorney who asked for the con-

tinuance and has had sufficient time to give the names of the witnesses to the court so that they might have been subpœnaed in due time.

Attorney Tizol suggested that the motion for continuance was based on the following reasons: First, that the libel or defamatory matter is a privileged communication; second, that no reference whatever is made in any part of the article as to the personal reputation or character of governor Yager; third, that the purpose of every libel being to attack the reputation of the innocent person against whom it is directed, and the personal reputation of the official as governor not having been attacked in any manner, he intends to prove that the reputation of the governor could not have been affected by Balzac because the governor had already been politically attacked by all of the political parties in Porto Rico.

9 The court suspended the hearing until two o'clock in the afternoon when the case was again called, the following statement having been made by the judge: the court will now rule on the motion for continuance. Whereas, at the call of this case for trial the defendant by his attorney filed a verified motion for a continuance to the next term, which motion was opposed by the district attorney and argued by both parties; Whereas, the trial of this case was set in open court at the reading of the criminal docket on June 1st, 1918, for the 27th of the said month, and on the 26th, on motion of counsel for the defendant alleging that he was busy with other criminal cases before the District Court of San Juan, it was continued and again set for the 29th, on which date it was also continued for a similar reason and again set for July 10th, when it was again continued on account of the illness of the defendant, on whose motion was newly set for the 26th of this month, the said setting having been, on motion of counsel for defendant, continued to the 29th; Whereas, notwithstanding the time elapsed and those four settings and continuances the defendant has not asked at any time that the witnesses referred to in the motion for continuance be subpœnaed and no showing was made of why the said witnesses were not previously subpœnaed. Whereas, subpœnas for the said witnesses were requested by telegraph on the 25th at noon, or only two days before the trial, said days being Saturday and Sunday, and therefore due diligence has not been shown: Whereas, this court will close its regular term within two days and therefore the case will go over for three months more, as the next criminal term will be held in November, and that will be contrary to the rule of procedure with respect to a speedy trial as provided for in paragraph 1 of section 11 of the Code of Criminal Procedure: Whereas, the said motion does not show the materiality of the evidence referred to therein, the same referring to letters and

10 communications which in themselves constitute hearsay evidence; Whereas, it has not been alleged that the facts to which that evidence would refer cannot be proven by some other witnesses. Therefore, in view of the case of The People v. Gallart, 11 P. R. R. 361, the court overrules the motion of the defendant and orders the case to trial.

Attorney Tizol excepted to the ruling of the court.

The information was read and attorney Tizol, by leave of the court, filed a demurrer on the ground that the information does not charge the crime defined by sections 243 and 244 of the Penal Code, inasmuch as it lacks the requirements pointed out in the case of The People of Porto Rico vs. García, decided by the Supreme Court. The district attorney opposed the demurrer on the ground that it was not in legal form and because it seems to be the theory of the attorney that the information should contain colloquiums or innuendos, that is an information as the one which was presented in the case of People vs. Adorno, but according to section 87 of the Code of Criminal Procedure it is not necessary that informations contain such colloquiums or innuendos as was held by the Supreme Court in the case of People vs. Aybar.

The court overruled the demurrer and attorney Tizol excepted, stating that the defendant pleaded not guilty to the information and alleged as a defense that the supposed libelous publication is justifiable because it refers to a public official and does not mention the commission of a public crime. Thereupon the prosecuting attorney introduced his evidence.

Having been duly sworn, RAMÓN ALFONSO RIVERA testified that he is the postmaster of Arecibo and was such postmaster in the month of April of said year. That he knows a newspaper which is edited and published in Arecibo and called "El Baluarte" that circulates by mail and which paper he receives personally. That in the month of April the editor of said newspaper was Jesús
11 M. Balzac in whose name was the privilege for the circulation of the newpaper; he recognizes the said gentleman and adds he has seen the said newpaper circulating by mail also identifying No. 79 of said publication in which it is an article entitled 'Yager'; he has seen the said newspaper circulating by mail also identifying delivered to the prosecuting attorney of Arecibo that several other numbers also circulated by mail although he cannot identify them with certainty; that usually a weight of four or five pounds is mailed, the number of copies being about eighty; that the day on which copy 69 was published the number of copies mailed was about eighty; that he called the attention of the prosecuting attorney as to the article entitled 'Yager' because the witness thinks it is libelous and defamatory on the Governor of Porto Rico after reading it. The witness considers the article libelous upon Governor Yager when it says 'like an abortion of hell expelled by the fiery billows of infamy this prototype of ignominy came among us as the diabolical incarnation of despotism. The witness considers the article entitled Yager libelous upon the governor from beginning to end. It says: For many years he has been our governor and during those years our tyrant. In the opinion of the witness the following language is injurious upon the governor: 'we contemplate our people subject to the yoke of an oppression; Hunt permitted abuses and sanctioned crime, but respected the right; this governor has done more; he has Borinquen sunk in the slough of social slavery; he has put his foot

upon the necks of the people and makes them swallow the liberticidal slime of the slough.' He also considers injurious the following words: 'the great American Nation should feel satisfied with our campaign of moral sanitation against this handful of dung thrown at us by Wilson from the Capitol which is fatal discredit to the national honor. That wretched, abominable and funereal figure; that man who is despised by the people is the extinguisher of every luminous idea which expands and shines in the
12 niveous hands of this virgin of the Carribean Sea; he is the odious grave-digger of the people, the assas-in of democracy, the people's persecutor and the insensate hangman of the yankee sentiment and of the love that this unfortunate people feels toward that Nation. He is an attempt at national dignity, a sarcasm that as a shower of daggers fall sharply upon the brow of American democracy. All tyrants had their crowns. I shall present one to this hyena studded with maledictions. It is an aureola that makes him detestable. It is the repugnant aureola of hypocrisy. Certainly this is a hypocrit-al governor. He acts contrary to his words. While he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people. That unfortunate man of a feeble criterion to be a governor will be a stain upon history

Witness says he knows where the newspaper "El Baluarte" is published; that it is published on 'Puente de Hierro Street,' at Arecibo; that the newspaper in question was distributed on that day in the town of Arecibo; that Mr. Balzac is the editor of said publication (pointing at him); that a boy took it to the postoffice by direction of Balzac, the editor, who has a privilege for its circulation as second class matter. No. 69 of "El Baluarte," of April 16, 1918, was introduced in evidence by the prosecuting attorney, attorney Tizol having objected to its admission on the ground that no evidence had been presented showing that the defendant was the editor of said newspaper. The prosecuting attorney stated that the publication itself showed that J. M. Balzac was the editor and manager. The judge admitted it in evidence attorney Tizol having excepted to said ruling. In answer to questions of the defense the witness said he was not prepared to explain what he understood by 'a tyrant,' also saying that a tyrant is any person who tyrannizes another. He understands by a dictator a governor of any country who declares himself a dictator of such country by his own authority and not by any sanction of law.
That a country is under social slavery when it is subject to it
13 and a ruler wants to submit it to slavery. The witness thinks that the statements contained in the article are strong and libelous meaning as they do that Governor Yager maintains the country in a social slavery. That the words he considers most libelous among those he has read are the words 'abominable' and 'funereal,' and 'that man who is despised by the people'; that the newspaper bears date of August 16, 1918; that witness lives in Arecibo and has no recollection of anything unusual occurring on that date; that he does not know whether the article is due to any special or definite political or economical campaign; that he does not remember if there was any strike at that time.

JOSÉ ADORNO was sworn and stated that his name is as aforesaid, is a resident of Arecibo and its municipal secretary; that formerly he was a journalist for a period of 14 or 16 years. He knows the newspaper called "El Baluarte" which is published in Arecibo as well as its editor, J. M. Balzac, by sight. He read in it an article headed 'Yager' about the month of April and saw while reading it that it referred to Governor Yager which article also bears this name. He considered the article libelous and tending to impeach the reputation of the Governor of Porto Rico. That the following are the words he deemed defamatory, libelous or injurious: 'who does not view with horror the exploits of this man whose authority is an insult and a dishonour to democracy and whose is the hand that tears the pages of the Constitution and impiously rends the white robe of Justice, which is as beautiful as Diana under the free shadow of the American flag, and as unhappy as Nioba under the authority of this American Kaiser! He also considers as libelous the following expression: 'the great American nation should feel satisfied with our campaign of moral sanitation against this handful of dung thrown at us by Wilson from the Capitol which is a fatal discredit to the national honor.

That wretched, abominable, and funereal figure; that man
14 who is despised by the people, is the extinguisher of every luminous idea which expands and shines in the niveous hands of this virgin of the Carribean Sea; he is the odious grave-digger of the people ,the assas-in of democracy, the people's persecutor and the insensate hangman of the yankee sentiment and of the love that this unfortunate people feels towards that Nation. He is an attempt at national dignity, a sarcarsm that as a shower of daggers fall sharply upon the brow of American democracy; an unbearable vexation to Saxon moral liberalism.' He also deems libelous and injurious this other statement contained in the article: 'it is the repugnant aureola of hypocrisy. Certainly this is a hypocrit-al governor. He acts contrary to his words. While he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people. That unfortunate man of a feeble criterion to be a governor will be a stain upon history.'

He read the article in Arecibo and thought from its reading that it referred to the Governor of Porto Rico, Mr. Yager, which was also apparent from the article. The witness says that answering questions of the prosecuting attorney he stated that he considered the article libelous to a certain extent because the criticism therein made is not to a public official but to Doctor Yager as a private individual and that it refers to him personally when it says 'who does not view with horror the exploits of this man whose authority is * * *' He deems the expression 'grave-digger of the people' as an opinion of the writer as the people as a whole cannot be buried by a ruler. That the statement 'assas-in of democracy' may be understood as an abuse of the people's rights. Replying to questions of the prosecuting attorney witness says that the first paragraph of the article bears some relation to his public life and refers to the governor; that he understood from the reading of the last part of the said article when it says that 'he imprisons the leaders and ravages the country

people' as meaning a man who did not keep his words, a man
15 without consideration who imprisoned and ravaged the country people, which meant that he was the cause of victims in the country people; that he incited them to go to strike, imprisoned them and then authorized the police force to kill them. That that was what he understood.

RAMÓN SEIJO, having been duly sworn, testified as follows: that his name is Ramón Seijo, is a resident of Arecibo, a minor surgeon, having been formerly a journalist for a period of eight years. He knows a newspaper published in Arecibo and called "El Baluarte;" he reads it, is a subscriber thereof and pays for it since it was first established. He read an article enti-led 'Yager' in the newspaper which is now presented to him that refers to Governor Yager as shown by its heading and in his opinion it is defamatory upon the Governor of Porto Rico, the following being among the paragraphs that witness thinks most libelous, to wit: 'The great American nation should feel satisfied with our campaign of moral sanitation against this handful of dung thrown at us by Wilson from the Capitol which is a fatal discredit to the national honor. That wretched, abominable and funereal figure; that man who is despised by the people, is the extinguisher of every luminous idea which expands and shines in the niveous hands of this virgin of the Carribean Sea; he is the odious grave-digger of the people, the assas-in of democracy and the people's persecutor; the insensate hangman of the yankee sentiment and of the love that this unfortunate people feels towards that Nation.' That the following paragraph is also injurious on governor Yager, to wit: 'While he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people. That unfortunate man of a feeble criterion to be a governor will be a stain upon history.' That Mr. Balzac is the editor of the newspaper "El Baluarte;" that he read that newspaper at home in Arecibo.

Replying to questions of the defense, the witness stated: that the paragraph in the article 'like an abortion of hell expelled by
16 the fiery billows of infamy this prototype of ignominy came among us as the diabolical incarnation of despotism; for many years he has been our governor and during those years our tyrant, clearly speaks of Mr. Yager and refers to the governor although the article is headed 'Yager.'

JOSÉ COLL Y VIDAL, having been duly sworn, stated that his name is José Coll y Vidal, a resident of San Juan, a journalist and editor of the newspaper "La Democracia." He read the article in the morning from the reading of which it is seen that it is directed to Yager, witness thinking that the article contains an opinion somewhat exaggerated of the acts of the governor, utterances that may — considered as vexatious, phrases of a doubtful meaning which in connection with the newspaper campaign may be regarded as a bad propaganda, not only against the governor but even upon him as private individual as shown by the said article when it says 'while

he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people.' That utterance is very strong. Under the circumstances these words may be considered as a figurative statement, but taking them literally and considering that in those days some agitators of strikes were imprisoned, and in view also that some workmen were wounded in some riots it might be understood that it was the governor who ordered them to be killed.

Replying to questions of the defense the witness stated, that the following is the paragraph of the article where it is said that the governor ordered them to be killed: 'while he says that he will uphold the rights of the strikers he imprisons the leaders and ravages the country people.' Considering the nature of the article which bears the name of the person, and in view of the fact that in those days some of the strikers were imprisoned and wounded in some of the riots; the article being headed 'Yager' and saying 'while he says that — will uphold the rights of the strikers he imprisons the 17 leaders and ravages the country people' it may be understood that he, (the governor), orders the country people to be killed.

Witness for the Defense.

PRUDENCIO RIVERA was duly sworn and in answer to questions of attorney Tizol testified that his name is Prudencio Rivera, is a resident of San Juan, organizer of the National Union of Cigar-makers of Porto Rico and vice-president of the Executive Committee of the Free Federation of Laborers; that in April of this year he lived at San Juan and at the time when the article headed 'Yager' was written there was a strike. He knows Mr. Balzac and took part in the strike movement explaining what he did. A meeting took place in Bayamón on September 1st, when the Second Agricultural Assembly was held for the purpose of carrying into execution measures which had been adopted at the former assembly, among them being one adopted at Bayamón for demanding a minimum agricultural wage of $1.50 and 75 cents for women. The Executive Committee of which witness is a member was instructed to demand the same from the Association of Sugar Producers, which they did, but received no answer. The same thing was done in November with the same result. Instructions were given to the Unions that they ask aid from the American Federation of Labor and when we had made known the indifference with which the matter was considered by those who should have considered it carefully we appealed to governor Yager and asked him to call a meeting of the planters. He promised to do so but did not, so we appealed to Mr. Gompers, President of the American Federation of Labor. February 10th was set for a meeting of the Executive Committee of the American Federation of Labor to pass on the petition, but no such decision was reached; President Gompers sent us a copy of a citation for the interview and we met. The Executive Committee met and resolved to call on the governor about the matter and he answered that 'apparently there was no general strike and he deemed it unnecessary

to issue the call.' Notwithstanding the statements made by
18 the governor there was a strike since September at some places and while the strike was going on was when the article in the 'Baluarte' appeared. He took part in the interview with the governor, the last one being held on the twenty ninth of March. He knows of the protests made on account of the suspension of certain meetings and parades, but was not at the meeting which was suspended. He received instructions from the Executive Committee to proceed to Ponce to arouse the district and on the day after his arrival there, in the first fortnight of April, he went to the telegraph office where he delivered a telegram he wanted to send to inform his office of his arrival and of having met a number of laborers during the night and that a meeting had been held on 'Mendez Vigo' street, also stating that the police had not disturbed the order of the meeting; that he was informed by the telegraph operator that the telegram could not be sent because it contained a criticism of the police force and asked that the money should be refunded to him which was done together with a note from the Chief of the Bureau. The newspapers which then took part in the campaign were 'Justicia,' 'El Baluarte,' 'Yo Acuso,' 'Conciencia Popular,' and some other popular newspaper of the workmen.

In answer to questions by the prosecuting attorney he said that he could not give the exact date when the strike commenced, but that the first reports came from Humacao in December and the strike had not terminated yet. That the agricultural strike we declared was terminated by the Government and not by us. At present we are not on strike.

Judge: Yes or no; why did you say 'yes'?

Witness: We are not on a strike.

Pros. Atty.: You have stated that a telegram was returned to you in Ponce?

Witness: Yes, sir. I know personally who issued the order. I saw it after it was shown to me by Palacios in a book containing Government's Circulars, from the Department of Interior,
19 Mr. Enright being Commissioner of the Interior.

The 'Baluarte' was a newspaper which made propaganda in favor of the strike; he had relations with Balzac, but does not know whether he was the editor of 'Baluarte' at that time.

Pros. Atty.: I move the court to order that the whole testimony be stricken out, it being immaterial and making no reference to the defendant.

Atty. Tizol: I object. I called this witness to prove that there was a strike at that time.

Judge: I really think that a link is lacking to connect this testimony with the defendant, but I also think that it is unnecessary to strike it out because it may be considered pertinent.

The evidence of the defense is exhausted.

The foregoing is the Statement of the Case and Bill of Exceptions which is hereby approved by the Judge of the District Court of Arecibo.

I, Enrique Lloreda Casabo, Judge of the District Court of Arecibo, Porto Rico, do hereby certify that the foregoing Statement of the Case contains all the evidence examined at the trial of criminal action No. 880, prosecuted by The People of Porto Rico against Jesús M. Balzac, for a crime of libel, as well as all the exceptions taken at said trial; the said statement having been drafted by the court after considering the statements made by the prosecuting attorney who was then the only party who appeared on October 25, 1918, at the hearing required by law; therefore I approve the same as it was presented and it is hereby ordered that as approved it forms a part of the Judgment-Roll.

Given under my hand and the seal of this court in the city of Arecibo, this 26th day of May, 1919.

(Sd.) ENRIQUE LLOREDA,
Judge of the District Court of Arecibo, P. R.

20 In the District Court for the Judicial District of Arecibo, P. R.

THE PEOPLE OF PORTO RICO

vs.

JESÚS M. BALZAC.

Libel.

Motion for Continuance.

Now comes the defendant by his attorney José de Jesús Tizol, and respectfully shows:

1st. That he was summoned to appear today, July 29, 1918, in this court for the trial of the case of People of Porto Rico vs. Jesús M. Balzac.

2nd. That in due time, about the 25th instant, he sent a telegram to the Judge of this court praying for an order directed to the proper official for subpœnaing the following witnesses:

Pedro Rodriguez, Governor's Private Secretary;
Geo. Shanton, Chief of Insular Police;
José Muñoz Rivera, Secretary of the Insular Senate;
Guillermo Esteves, Commissioner of the Interior, and
Henry W. Dooley.

3rd. That according to the report of the marshal the said witnesses were not subpœnaed at San Juan, the place of their residence as duly given by this defense.

4th. That for that reason they were not present when the trial was commenced.

5th. The defense beli-ves that the testimony which the said witnesses would give at the trial would be material to the case and not cumulative; that due diligence having been exercised on his part to obtain their testimony he believes that their presence at the trial is absolutely necessary and he is sure that they would testify as follows:

PEDRO RODRIGUEZ: that on January 30, 1918, at the re-
21 quest of Santiago Iglesias he wrote him a letter in the following terms:

SIR:

In accordance with your request I have been instructed by the governor to furnish you with a copy of his telegram to the mayor of Guayama, as follows:

San Juan, Porto Rico, January 29, 1918.

Genaro Cautiño, Mayor of Guayama, Porto Rico:

In view of the present condition of war and of the decision of the Department of Labor of the United States to send to Porto Rico a mediator for conciliation in this matter, no aid should be given to any strike or movement at present and no permit should be granted for the purposes mentioned in your telegram.

ARTHUR YAGER.

Respectfully,
(Sd.) P. S. RODRIGUEZ,
Governor's Secretary.

GEO. SHANTON: that the following was contained in a circular sent to Andrés Arellano on March 9, 1918, and signed by Geo. Shanton, Chief of the Insular Police: That in regard to parades of strikers on public roads and in view of the many crimes, no permit should be given to strikers to use national or labor flags, or any flag of any kind, or musical instruments, that may infiltrate enthusiasm in the strikers.

That on February 1st. the following communication was sent to the District Chief of Humacao, to wit: Notify the mayor, by order of the governor, not to permit parades by agitators of strikers in view of the present condition of war. The Police will not permit public meetings or parades on public roads, they only being entitled to enter into peaceful strikes without any parades.

We think he would also testify that on several occasions the police men under his orders have been furnished to protect the transportation of strike-breakers to the several centrals where strikes exist.

GUILLERMO ESTEVES: would testify that as Commissioner
22 of Interior he gave instructions in compliance with orders from the Governor of Porto Rico to the effect that certain telegrams should not be transmitted because they incited strikes and were not in a conciliatory form.

The said letter was also sent to Santiago Iglesias on April 3, 1918.

He would also testify that the telegraph service under his control is the only means available for the transmission of telegraphic messages.

JOSÉ MUÑOZ RIVERA: That as Secretary for the Senate he knows that the said Senate was declared in recess in November of last year when the Governor thought that the session was adjourned.

That on February of the following year and while the Legislative Assembly was in session by virtue of the recess, it was, however, called in special session in spite of the fact that the work for which it was convened had not been terminated.

That the governor vetoed the following bills approved by both Houses:

Creating a Grand-Jury system.

For the establishment of the People's Bank.

To promote the credit of the coffee industry.

To amend section 178 of the Code of Criminal Procedure by granting jury trials in some misdemeanor cases.

The resolution petitioning the Congress of the United States to extend to Porto Rico the rural credits and trade educational acts.

HENRY W. DOOLEY: would testify concerning a letter which was sent from San Juan to Hon. F. C. Roberts on April 17, 1918, preferring special charges against governor Yager, saying, among other things, that "no doubt he is not the man of the hour." In order to avoid copying the letter, we offer it in evidence separately, it having been published in "Justicia" on May 25, 1918.

The defense further says that counting upon the presence of witnesses Epifanio Fiz, Ramón Barrios and Santiago Iglesias, the last-named being absent in the United States but was expected to
23 be in Porto Rico about this time, we deem his testimony necessary and it would be as follows:

EPIFANIO FIZ and RAMÓN BARRIO: Not having time to copy the report made by them and published in "Justicia" on April 20, 1918, we offer it separately also.

They would testify also as to a telegram sent to Senator Santiago Iglesias informing him that a high official of the Fajardo Sugar Co. knew of a communication of the Governor to the Executive Committee of the Federation two hours before this Committee reported, the telephone message notifying Mr. Bird that the governor's letter was favorable to them.

SANTIAGO IGLESIAS: As may be seen, this witness is connected with nearly all of the foregoing evidence and furthermore he could testify as to the charges preferred by him against governor Yager to President Wilson through Mr. Gompers, the President of the American Federation of Labor. He witnessed also the attitude taken by the said Institution at the last convention when said Iglesias attended and at which also a resolution was adopted asking for the removal of Governor Yager and that Porto Rico be separated

from the Bureau of Insular Affairs and annexed to the Department of Interior and that a committee be appointed to investigate the general conditions of the country, which committee has been recently appointed and whose decision, and we understand that its report should be awaited before proceeding to this trial.

Wherefore, we pray this court to continue the trial of this case until the next term.

Arecibo, Porto Rico, July 29, 1918.

(Sd.) JOSÉ DE JESÚS TIZOL.

I, José de Jesús Tizol, attorney-at-law with an office in San Juan, under oath declare:

1. That I am the attorney in this case and have made the foregoing motion.

2. That the facts therein stated are true.

24 (Sd.) JOSÉ DE JESÚS TIZOL.

Sworn to and subscribed before me this 29th day of July, 1918, by attorney José de Jesús Tizol, of age, whom I personally know.

(Sd.) MANUEL L. CORBET,
Clerk of the District Court.

Filed in my office this 29th day of July, 1918.
(Sd.) MANUEL L. CORBET,
Clerk.

Attention is hereby called to the fact that defendant Jesús M. Balzac is temporarily at liberty under bail furnished by him.

I, Manuel L. Corbet, Clerk of the District Court for the Judicial District of Arecibo, Porto Rico, do hereby certify that the foregoing is a true and exact copy of the original as it appears of record in the court in criminal case No. 880, brought by the People of Porto Rico against Jesús M. Balzac, for libel; and to be forwarded to the Secretary of the Supreme Court of Porto Rico in compliance with section 356 of the Code of Criminal Procedure as amended by Act of March 7, 1908, I issue this copy under my signature and the official seal of the Court, in the city of Arecibo, this seventh day of June, 1919.

[SEAL.] (Sd.) MANUEL L. CORBET,
Clerk of the District Court of Arecibo.

25 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Complainant and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

Opinion of the Court.

Delivered by Mr. Justice Wolf.

San Juan, Porto Rico, March 4, 1920.

There are five assignment- of error*s* in this appeal.

A motion for a continuance of the trial was presented on the ground that certain witnesses for the defense were not summoned. On motions of the defendant the trial was suspended for four times. The case was finally set for July 29, 1918. At the last moment, on July 26th, the 27th and 28th being Saturday and Sunday respectively, the defendant asked by telegraph that certain witnesses who were not duly summoned and did not appear, should be summoned. The practice followed by the defendant is not authorized by the law and his neglect in leaving the matter for the last moment is clear. Moreover, the motion for the continuance of the trial shows the material testimony which the witnesses who did not appear would give, and we think, granting that all their statements are true, that they do not justify the defendant's position.

In the second assignment of error the appellant maintains that he was entitled to a jury trial. The offense is a misdemeanor. As we understand the decisions of the Supreme Court of the United States in the cases of People of Porto Rico et al. v. Carlos Tapia and People of Porto Rico et al. v. José Muratti, 245 U. S. 639, that part of the 6th Amendment of the Constitution of the United States
26 giving a defendant in all criminal cases a right to a trial by jury is not applicable to Porto Rico. Under the Code of Criminal Procedure a defendant is only entitled to a jury trial in cases of felony.

The third assignment of error maintains that the information did not charge a crime under sections 243 and 244 of the Penal Code. Section 243 is as follows:

"A libel is a malicious defamation, expressed either by writing, printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach his honesty, integrity, virtue, or reputation, or publish the natural or alleged defects of one

who is alive, and thereby to expose him to public hatred, contempt or ridicule."

The article transcribed in the information in this case is so violent in its invective that we do not see fit to reproduce it for the purposes of our records. Not only did a simple reading of it show that the governor of Porto Rico was the subject of attack, but that in half a dozen or more places of the article there were phrases that, if true, would necessarily expose Arthur Yager to public hatred, contempt or ridicule. Moreover, several witnesses testified at the trial that they had read the article and would necessarily understand it as subjecting the governor to such public hatred, contempt or ridicule.

The fourth and fifth assignments of error may be treated together. In substance, the appellant maintains that the proof did not show that Balzac was the editor of the newspaper in which the libelous article appeared or that he had anything to do with the publication. The appellant says that proof presented by the People of Porto Rico was a newspaper wherein it appeared that Balzac was the editor. Objection was made to the admission of this paper, it is true, but before it was admitted a witness had been allowed to state,
27 without objection, that the defendant, whom he identified, was the editor of the said paper, and the very proof of the defendant tended to corroborate the testimony of the government that the defendant and appellant was responsible for the publication.

The judgment must be affirmed.

(Sd.) ADOLPH G. WOLF,
Associate Justice.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

Judgment.

San Juan, Porto Rico, March 4, 1920.

This court has considered the transcript of the record, the briefs filed by both parties and the oral argument of the appellee, for the reasons set forth in the preceding opinion it is held that the judgment of the District Court of Arecibo of May 31, 1919, should be affirmed. Let this judgment together with the opinion on which it is based be communicated to the lower court.

Adjudged and signed by José C. Hernández, Adolph G. Wolf, Emilio del Toro, Pedro de Aldrey, H. M. Hutchison.

I, Joaquin Lopez Cruz, Secretary-Reporter of the Supreme Court of Porto Rico, do hereby certify that the foregoing copies
28 of the opinion and judgment agree with the originals; and in order to attach to the proper record, I issue this copy in San Juan, Porto Rico, this 10th day of March, 1920.

(Sd.) JOAQUIN LOPEZ CRUZ,
Secretary-Reporter.

(Sd.) By FELIPE JANER, JR.,
Deputy-Secretary.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Now comes defendant Jesus M. Balzac by his attorney Abraham Peña before this Hon. Court and respectfully shows:

That not being satisfied with the judgment rendered by this court affirming the judgment of the District Court for the Judicial District of Arecibo, he appeals to the Supreme Court of the United States in accordance with the right granted him by section 43 of the Organic Act for Porto Rico, and on the following two Constitutional grounds, to wit:

1st. Because the defendant has been denied the right granted him by the Sixth Amendment to the Constitution of the United States of being tried by a jury.

2nd. Because, in any event, if the law under which he was convicted and sentenced furnishes sufficient grounds therefor, it should be considered, by reason of its excessive harshness, as contrary to the letter and spirit of the First Amendment to the Constitution
29 of the United States.

Therefore, the defendant prays this court to consider the said appeal as taken to the Supreme Court of the United States and allow it by such approval as may be proper.

San Juan, Porto Rico, March 11, 1920.

(Sd.) LCDO. ABRAHAM PEÑA,
Attorney for Defendant and Appellant.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Libel.

Assignment of Errors.

Now comes the defendant-appellant, Jesús M. Balzac, by his undersigned attorney and files this assignment of errors on which he bases his appeal to the Supreme Court of the United States from the judgment of the Supreme Court of Porto Rico of March 4, 1920, whereby the judgment of the District Court of Arecibo, of the 31st of May, 1919, was affirmed.

The errors on which the defendant appellant bases his appeal are as follows:

1. The Supreme Court of Porto Rico erred in dismissing the plea of the defendant-appellant that the said defendant was denied the right to be tried by a jury.

That right is set forth and recognized by the Sixth Amend-
30 ment to the Constitution of the United States, and in this case a freeman has been deprived of the right to be tried by his peers.

2. The Supreme Court of Porto Rico erred in affirming the judgment of the District Court of Arecibo of May 31, 1919, sentencing the defendant to five months in jail for the crime of libel, which sentence the defendant considers excessive and severe and contrary to the spirit and letter of the First Amendment to the Constitution of the United States, inasmuch as the said crime of libel was committed at a historical moment of agitation and excitement in the country due to the agricultural strikes and the judgment might have been satisfied by only sentencing the defendant to pay a fine.

The above are the assignments of error that the appellant points out for the purposes of this appeal, which are respectfully submitted to this Supreme Court of Porto Rico.

San Juan, Porto Rico, March 12, 1920.

(Sd.) LCDO. ABRAHAM PEÑA,
Attorney for Defendant, Appellant.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

On Appeal to the Supreme Court of the United States.

Order.

San Juan, Porto Rico, March 20, 1920.

The appeal in the above-entitled cause is hereby allowed, the appellant being required to file a bond in the sum of One
31 Thousand Dollars to remain in temporary liberty while the said appeal is pending, and also a bond in the sum of Three Hundred Dollars to answer for the costs that may be imposed upon him, the said bonds to be approved by the Chief Justice of this court; and it is further ordered that appellant file a Præcipe of the proceedings and papers to be included in the transcript on appeal, according to Rule 8 of the Supreme Court of the United States, the said documents to be translated into the English language and filed in the Office of the Secretary of this Court within the period fixed by law, to be forwarded to the said Supreme Court of the United States.

The court so ordered it and the Chief Justice signs; attest.

(Sd.) JOSÉ C. HERNÁNDEZ,
Chief Justice.

" JOAQUIN LOPEZ,
Secretary-Reporter.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,
vs.
JESÚS M. BALZAC, Defendant and Appellant.

Libel.

Bond.

UNITED STATES OF AMERICA,
The President of the United States:

By these presents, We, Santiago Iglesias and Inés Rita Aybar de Peña, residents of the District of San Juan, are firmly and duly bound unto The People of Porto Rico in the sum of One Thousand Dollars ($1,000), to the payment of which well and truly to be made if appellant Jesús M. Balzac should fail to comply with
32 the obligation hereinafter mentioned we not only bind ourselves jointly and severally by this instrument but also our heirs, executors and administrators.

Signed with our seals this nineteenth day of March, 1920.

The condition of the foregoing bond is as follows:

Whereas, Attorney Abraham Peña has taken an appeal in behalf of defendant-appellant, Jesús M. Balzac, to the Supreme Court of the United States from the judgment rendered by the Supreme Court of Porto Rico on March 4, 1920, whereby the judgment of the District Court of Arecibo, of the 31st of May, 1919, was affirmed, the said judgment sentencing the defendant to five months of imprisonment.

Whereas, the said appeal has been allowed by order of the 19th of March, 1920, wherein the Supreme Court of Porto Rico required a bond from the appellant in the sum of One Thousand Dollars for his temporary liberty while the said appeal is being considered and decided by the Supreme Court of the United States.

Therefore, by this bond we shall be held liable for the appearance of said Jesús M. Balzac before the Supreme Court of Porto Rico or before the District Court for the Judicial District of Arecibo and for his submission and obedience to any rules or orders that may be made by any of said courts by reason of the said appeal, and also that the said Jesús M. Balzac shall appear in any of the aforesaid courts at the time and day on which he may be summoned to appear, in which case this obligation or bond shall be null and void; but if the said Jesús M. Balzac should fail to appear before any of the said courts and submit to the orders that may be rendered by such courts by reason of the appeal taken, this bond or obligation shall remain in full force and may be made effective.

(Sd.) SANTIAGO IGLESIAS.
INÉS R. A. DE PEÑA.

33 Signed before me by Santiago Iglesias and Inés R. Aybar de Peña, of age, property owners, residents of this city, to me personally known, in San Juan, P. R., this 19th day of March, 1920.

(Sd.) JOSÉ SOTO RIVERA,
Notary Public.

No. 225.

I, Santiago Iglesias, of this city, being duly sworn say: That I am a resident of this city of San Juan; that I own real estate in the Municipality of San Juan of the value of more than One Thousand and Two Hundred Dollars, exclusive of all lien thereon; that I pay taxes to the Treasury of Porto Rico of more than fifteen dollars ($15), and that the said property is not subject to any liens or obligations nor exempt from execution for privilege of any kind; that in assuming the foregoing obligation as surety for appellant Jesús M. Balzac I do so freely and without any mental reservation or purpose of evasion.

[Notary Seal.] (Sd.) SANTIAGO IGLESIAS.

Internal Revenue stamp of 25 cts., cancelled.

Sworn to and subscribed before me by Santiago Iglesias, of age, property owner, resident of this city, to me personally known, this 19th day of March, 1920.

(Sd.) JOSÉ SOTO RIVERA,
Notary Public.

I, Inés R. Aybar de Peña, of this city, being duly sworn, say: That I am a resident of this city of San Juan; that I own real estate in the Municipality of Mayaguez of the value of more than One Thousand and Two Hundred Dollars ($1,200), exclusive of
34 all liens thereon; that I pay taxes to the Treasury of Porto Rico of more than fifteen dollars ($15), and that the said property is not subject to any liens or obligations nor exempt from execution for privilege of any kind; that in assuming the foregoing obligation as surety for appellant Jesús M. Balzac I do so freely and without any mental reservation or purpose of evasion.

(Sd.) INÉS R. A. DE PEÑA.

No. 226.

Sworn to and subscribed before me by Inés R. Aybar de Peña, of age, property owner, resident of this city, to me personally known, in San Juan, P. R., this 19th day of March, 1920.

[Notary Seal.] (S.) JOSÉ SOTO RIVERA,
Notary Public.

Internal Revenue stamp of 25 cts., cancelled.

In the Supreme Court of Porto Rico.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Bond.

UNITED STATES OF AMERICA,
The President of the United States:

By these presents, We, Santiago Iglesias and Inés Rita
35 Aybar de Peña, residents of the District of San Juan, are firmly and duly bound unto The People of Porto Rico in the sum of Three Hundred Dollars ($300), to the payment of which well and truly to be made if appellant Jesús M. Balzac should be sentenced to pay the costs in the appeal taken as hereinafter stated we not only bind ourselves jointly and severally by this instrument, but also our heirs, executors and administrators.

The condition of the foregoing obligation is as follows:

Whereas, attorney Abraham Peña has taken an appeal in behalf of defendant-appellant Jesús M. Balzac to the Supreme Court of the United States from the judgment rendered by the Supreme Court of Porto Rico on March 4, 1920, whereby the judgment of the District Court of Arecibo of May 31, 1919, was affirmed, the said judgment sentencing the defendant to five months in jail.

Whereas, the said appeal has been allowed by order of March 20, 1920, wherein the Supreme Court of Porto Rico also required a bond from the appellant in the sum of One Thousand Dollars for his temporary release and a bond of Three Hundred Dollars for the costs of the appeal.

Therefore, by this bond we are held liable for the appearance of said Jesús M. Balzac before the Supreme Court of Porto Rico or the District Court for the Judicial District of Arecibo and for his submission and obedience to all rules and orders that may be made by the said courts by reason of the said appeal and for the payment by said defendant-appellant of any costs that he may be ordered to pay, in which case this obligation or bond shall be null and void, but if said Jesús M. Balzac should fail to pay such costs this bond or obligation shall remain in full force and may be made effective.

(Sd.) INÉS R. DE PEÑA.
SANTIAGO IGLESIAS.

Signed before me, by Inés R. Aybar de Peña and Santiago Iglesias, of age, property owners, residents of this city, to me person-
36 ally known, in San Juan, Porto Rico, this — of April, 1920.

____ ____,
Notary Public.

No. 698.

I, Inés R. Aybar de Peña, of this city, being duly sworn; say: that I pay taxes to the Treasury of Porto Rico, of more than in the Municipality of Mayaguez of the value of more than One Thousand and Two Hundred Dollars, exclusive of all liens thereon; That I pay taxes to the Treasury of Porto Rico, of more than fifteen dollars ($15), and that the said property is not subject to any liens or obligations nor exempt from execution for privilege of any kind; that in assuming the foregoing obligation as surety for appellant Jesus M. Balzac, I do so freely and without any mental reservation or purpose of evasion.

(Sd.) INÉS R. A. DE PEÑA.

Sworn to and subscribed before me by Inés R. Aybar de Peña, of age, property owner, resident of this city, to me personally known, in San Juan, Porto Rico, this 7th day of April, 1920.

[Notary's Seal.] (Sd.) ANGEL R. DE JESÚS,
Notary Public.

Internal Revenue stamp of 25 cts., cancelled.

I, Santiago Iglesias, of this city, being duly sworn, say: that I am a resident of this city of San Juan; that I own real estate in the Municipality of San Juan of the value of more than One Thousand and Two Hundred Dollars ($1,200) exclusive of all liens thereon; that I pay taxes to the Treasury of Porto Rico of more than fifteen dollars ($15), and that the said property is not
37 subject to any liens or obligations nor exempt from execution for privilege of any kind; that in assuming the foregoing obligation as surety for appellant Jesús M. Balzac, I do so freely and without any mental reservation or purpose of evasion.

(Sd.) SANTIAGO IGLESIAS.

No. 699.

Subscribed and sworn to before me by Santiago Iglesias, of age, property owner, resident of this city, to me personally known, in San Juan, Porto Rico, this — day of April, 1920.

[Notary's Seal.] (Sd.) ANGEL R. DE JESÚS,
Notary Public.

Internal Revenue stamp of 25 cts., cancelled.

In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

Order.

San Juan, Porto Rico, April 8, 1920.

The bonds of One Thousand Dollars ($1,000) and Three Hundred Dollars ($300) respectively given by Santiago Iglesias and Inés Rita Aybar de Peña in the appeal taken by the defendant in the above-entitled cause having been considered, the same are
38 approved; and it is ordered that while such appeal is pending the defendant be temporarily at liberty.

The court so ordered and the chief Justice signs; attest.

(Sd.) JOSÉ C. HERNANDEZ,
Chief Justice.

" JOAQUIN LOPEZ,
Secretary-Reporter.

39 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

v.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

On Appeal to the Supreme Court of the United States.

Citation.

UNITED STATES OF AMERICA, *ss:*

To the People of Porto Rico, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, at Washington, within sixty days from the date hereof, pursuant to an appeal filed in the Clerk's office of the Supreme Court of Porto Rico, wherein Jesús M. Balzac is appellant and you are appellee, to show cause, if any there be,

why the judgment rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable José C. Hernández, Chief Justice of the Supreme Court of Porto Rico, this 13th day of April in the year of Our Lord one thousand nine hundred and twenty.

[Seal of Supreme Court of Porto Rico, United States of America.]

JOSÉ C. HERNÁNDEZ,
Chief Justice of the Supreme Court of Porto Rico.

Attest:
JOAQUIN LOPEZ,
Secretary-Reporter of the Supreme Court of Porto Rico.

Supreme Court of Porto Rico.

Marshal's Office.

Received this citation on its date and served the same by delivering personally a copy thereof to the Hon. Attorney General of Porto Rico, at San Juan, Porto Rico, this 14th day of April, 1920.

S. C. BOTHNELL,
Marshal.

40 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Libel.

Præcipe for Record.

The Clerk of this Court is hereby requested to prepare a certified copy of the transcript of the record in the above-entitled cause for the use of the Supreme Court of the United States by including therein the following:

1. Information.
2. Judgment of the District Court of Arecibo, P. R.
3. Appeal to the Supreme Court of Porto Rico.
4. Statement of the Case.

5. Motion for continuance.
6. Opinion of the Supreme Court.
7. Judgment of the Supreme Court.
8. Appeal to the Supreme Court of the United States.
9. Assignment of Errors.
10. Order allowing appeal.
11. Bond for temporary liberty of defendant.
12. Bond for costs.
13. Order approving bonds.
14. Citation.
15. This Præcipe.
16. Notice of filing of Præcipe with proof of service.

(Sd.) LCDO. ABRAHAM PEÑA,
Attorney for Defendant-Appellant.

41 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Libel.

To Salvador Mestre,
Attorney General of Porto Rico:

Please take notice that on the 30th of September, 1920, the undersigned filed with the Clerk of this Court a Præcipe for the record to be transmitted to the Supreme Court of the United States on the appeal taken in the above cause, a copy of which Præcipe is hereby served on you.

Dated San Juan, P. R., September 30, 1920.

(Sd.) LCDO. ABRAHAM PEÑA.
Attorney for Defendant-Appellant.

Served with copy, this 30th day of September, 1920.

(Sd.) SALVADOR MESTRE,
Attorney General of Porto Rico.

42 ISLAND OF PORTO RICO,
District of San Juan, ss:

I, Abraham Peña, being duly sworn, depose and say: that I am the attorney for the appellant herein; that on the 30th of September I served a copy of the foregoing notice of filing and of the Præcipe therein referred to upon Salvador Mestre, Attorney General of Porto Rico, by delivering in his office, in San Juan, Porto Rico, true copies of said documents.

San Juan, Porto Rico, September 30, 1920.

(Sd.) LCDO. ABRAHAM PEÑA,
Attorney for Defendant-Appellant.

Subscribed and sworn to before me, this 30th day of September, 1920, by Abraham Peña, of full age, lawyer and resident of San Juan, Porto Rico, to me personally known.

(Sd.) ENRIQUE CAMPILLO,
Notary Public.

Affidavit No. 781.

Revenue stamp cancelled.

43 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Libel.

On Appeal to the Supreme Court of the United States.

Translator's Certificate.

I, Felipe Janer, Jr., official interpreter and translator of the Supreme Court of Porto Rico, do hereby certify:

That the foregoing is a true and faithful translation of their respective originals as the same appear from the original record of this case on file in this office.

In testimony whereof, I have signed this certificate in the city of San Juan, Porto Rico, this 19th day of October, 1920.

FELIPE JANER, JR.,
Interpreter and Translator of the Supreme Court of Porto Rico.

44 In the Supreme Court of Porto Rico.

No. 1416.

THE PEOPLE OF PORTO RICO, Plaintiff and Appellee,

vs.

JESÚS M. BALZAC, Defendant and Appellant.

Appeal from the District Court of Arecibo.

On Appeal to the Supreme Court of the United States.

Clerk's Certificate.

I, Joaquin Lopez Cruz, Secretary-Reporter of the Supreme Court of Porto Rico, do hereby certify:

That the foregoing papers and proceedings had in the above-entitled case are true and faithful copies of their respective originals as the same appear on file and of record in this office and embodied in this transcript by the appellant, according to the præcipe filed in my office by said appellant; I further certify that the translations of said papers and proceedings have been revised by the official interpreter and translator of this court, as shown by his certificate hereto attached and made a part of this transcript.

In testimony whereof, I have hereunto set my hand and affixed the seal of this court, in the city of San Juan, Porto Rico, this 19th day of October, 1920.

[Seal of Supreme Court of Porto Rico, United States of America.]

JOAQUIN LOPEZ.
Secretary-Reporter of the Supreme Court of Porto Rico.

[Canceled internal-revenue stamps.]

Endorsed on cover: File No. 28,000. Porto Rico Supreme Court. Term No. 178. Jesús M. Balzac, appellant, vs. The People of Porto Rico. Filed December 7th, 1920. File No. 28,000.